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| In the Matter of the Arbitration | : |
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| between | : |
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| CITY OF PHILADELPHIA, | : |
| | : |
| “City” | : |
| | : |
| - and - | : |
| | : |
| F.O.P, LODGE NO. 5, | : |
| | : |
| “Union” | : |
| -----X | |

For the City

For the Union

BEFORE: David J. Reilly, Esq., Arbitrator

BACKGROUND

The City discharged Police Officer Anthony Abrams, effective June 19, 2017. It took this action based upon a finding that he had violated various provisions of the Department Disciplinary Code, stemming from an investigation of his conduct on June 7, 2015. The violations included: lying during a Departmental investigation; associating with persons engaged in criminal activity; conduct indicating little or no regard for his responsibility as a Department member; and unapproved outside employment.¹

The Union contends the City lacked just cause to discharge Abrams. It asks that he be reinstated to his former position with the Department and be made whole for all pay and benefits lost as a consequence of his discharge. It also requests that all references to the discharge be expunged from his personnel file to the maximum extent permitted by law.

The relevant facts of this case, including the areas of dispute, may be set forth succinctly.

At the time of his discharge, Abrams had been a member of the Department for over ten years. He has no record of prior discipline.

The circumstances that led to Abram's discharge arose from an incident that occurred while he was off duty on June 7, 2015.

¹ The relevant provisions of the Department Disciplinary Code, which is contained in the parties' collective bargaining agreement, read as follows: (1) "1-§009-10 Lying or attempting to deceive regarding a material fact during the course of any Departmental investigation;" (2) "1-§013-10 Knowingly and intentionally associating, fraternizing or socializing with persons actively engaged in criminal conduct or fugitives from justice, or others that compromises, discredits, prejudices or otherwise makes suspect an employee's authority, integrity or credibility;" (3) "1-§021-10 Any incident, conduct or course of conduct which indicates that an employee has little or no regard for his/her responsibility as a member of the Police Department;" and (4) "6-§023-10 Unapproved outside employment." (Joint Exhibit 1.)

Detective S [REDACTED] F [REDACTED] testified that in the early morning that day, she responded to a reported robbery and police shooting at 1400 North Myrtlewood Street in Philadelphia, which involved Abrams and his then girlfriend, B [REDACTED] H [REDACTED]. According to F [REDACTED], when questioned, H [REDACTED] advised that she and Abrams had traveled by car to that location so that she could purchase a cell phone from an individual who had placed an advertisement on Craig's List. After arriving there, she reported exiting Abrams' vehicle and approaching an individual who she believed to be the seller. She related that this individual displayed a gun, grabbed her handbag containing her cell phone and ran off. In response to her scream, she recalled that Abrams began chasing this person and fired his gun several times.²

F [REDACTED] averred that in her investigation of this matter, she obtained a warrant to search a cell phone that had been recovered at the location of the robbery. The phone, she suspected, might belong to the alleged robber because H [REDACTED] had confirmed that it was not hers. A review of the phone's contents, she stated, revealed calls and text messages to and from the phone that H [REDACTED] had reported stolen. According to F [REDACTED], the content of the text messages suggested that H [REDACTED] had not been making arrangements to purchase a cellphone, but instead, had been scheduling an appointment to provide prostitution services at the North Myrtlewood Street location. In support, she noted that the text messages exchanged between H [REDACTED] and the owner of the recovered cell phone included references to her providing "outcall" services for a fee of \$220 per hour. (City Exhibit 1, pp. 0142-0173.)³

² The first 911 call reporting these gunshots was received by the Department at 1:37 a.m. on June 7, 2015. At 1:42 a.m., Abrams contacted the Department to report the discharge of his firearm and advise of the robbery. (City Exhibit 1, pp. 006 & 008.)

³ The Department's investigative efforts failed to identify the owner of the recovered cell phone.

F█████ stated that as a result of these findings, she referred the matter to the Department's Internal Affairs Division ("IAD") for continued investigation. This action, she explained, was necessary because her investigation had revealed Abrams' possible involvement in criminal activity, namely prostitution.

Lieutenant Christine McShea, a member of IAD, testified that on June 18 2015, she received the assignment to continue the investigation of this matter.⁴ In response, she reported conducting a Google search of the number associated with H█████'s stolen cellphone. The search results, she stated, showed that the number was linked to advertisements for escort services that had been placed on multiple websites promoting prostitution, such as Backpage. (City Exhibit 1, pp. 0116-0128.)

She related that her investigation also included obtaining H█████'s cellphone records and conducting physical surveillance of Abrams for eighteen days during June and July 2015. With these measures yielding negative results, she stated that her investigation went dormant for several months.

She reported that the investigation resumed in October 2015 when H█████ contacted the Department to revise her statement regarding the events of June 7, 2015. According to McShea, H█████ expressed that she wanted "to come clean" regarding the events of that morning.⁵

After entering into a proffer agreement with the District Attorney and receiving a grant of immunity for providing a revised statement, H█████ acknowledged that while

⁴ IAD conducted a separate investigation of Abram's discharge of his firearm on June 7, 2015. This latter investigation concluded on August 24, 2016 without any charges being brought against Abrams. (City Exhibit 1, pp. 0046-0052.)

⁵ McShea reported that when H█████ came forward in October 2015 to revise her statement, she had charges pending from a September 3, 2015 prostitution arrest for which she had an upcoming court date. Those charges, she stated, were subsequently resolved by H█████ pleading nolo contendere to a reduced charge of promoting prostitution for which she was sentenced to probation. (City Exhibit 1, pp. 0010 & 0239-0255.)

she had been robbed on June 7, 2015, as previously stated, she had gone to the North Myrtlewood Street location to provide prostitution services and not to purchase a cellphone. (City Exhibit 1, pp. 0028-0036). In her revised statement, she also averred that Abrams had accompanied her to that location knowing of her intentions.⁶

McShea related that on further questioning, H [REDACTED] revealed that she and Abrams had been involved in providing prostitution services for several months. Abrams's role, she stated, was to drive her to escort appointments and provide protection. Describing her practice, she reported carrying two cell phones while on an escort appointment with one phone connected on an open line to Abrams' cell phone. By doing so, she stated, Abrams was able to monitor the appointment and intervene if necessary for her protection.

H [REDACTED] reported further that after June 7, 2015, Abrams ceased driving her to escort appointments. She recalled Abrams explaining that he feared IMPACT was following him. McShea stated that IMPACT was the predecessor to the IAD's Investigative Support Services Unit, which addresses allegations of police corruption.

H [REDACTED] also advised that her relationship with Abrams had ended in approximately September 2015. As a result, she recounted moving from his home to an apartment that he had arranged for her and for which he had paid the first months' rent.

McShea recounted that after taking H [REDACTED]'s revised statement, her investigation continued with obtaining Abram's cell phone records. A review of which, she stated, revealed that H [REDACTED]'s second cell phone number was registered to that

⁶ Although H [REDACTED] was subpoenaed by the City to testify in this matter, she failed to appear at the May 21, 2018 hearing without explanation.

account. This second cell phone number, she reported, was also listed in the prostitution advertisements that H [REDACTED] had placed on Backpage and other websites.

McShea related that Abrams cell phone records also reflected three inbound calls from H [REDACTED]'s phone between 12:37 a.m. and 1:31 a.m. on June 7, 2015. The duration of the last of these calls was approximately four minutes.

McShea stated that her investigation also involved obtaining all records of Abrams' email account. These documents, she averred, did not contain any reference to or otherwise bear on H [REDACTED]'s prostitution activities. They did, however, contain various email threads dating from July 17, 2015 through October 7, 2015, which showed Abrams had been employed as an Uber driver during that period. (City Exhibit 1, pp. 0016 & 0413-0444.) She noted that a review of the Department's records revealed that Abrams did not receive authorization for outside employment to work as an Uber driver until September 17, 2015. (City Exhibit 1, pp. 0016 & 0460.)

In February 2016, McShea once more arranged physical surveillance of Abrams in connection with her investigation. She reported that this investigative measure, which was conducted on five days, yielded negative results.

McShea averred that her investigation concluded with her interview of Abrams on August 17, 2016.⁷ Abrams, she stated, reported driving H [REDACTED] to North Myrtlewood Street at approximately 1:30 a.m. on June 7, 2015, so she could purchase a cell phone from person located there. He recounted that after H [REDACTED] had exited his vehicle to meet the seller, he heard her scream and realized that she was being robbed. In response,

⁷ McShea testified that her interview of Abrams could not be conducted until IAD had concluded its investigation of Abrams for the discharge of his firearm on June 7, 2015.

he chased the robber who fled the location. In an unsuccessful effort to apprehend him, he confirmed discharging his weapon. (City Exhibit 1, pp. 0038-0039.)

According to McShea, when specifically questioned regarding H [REDACTED]'s escort work, Abrams denied having any knowledge that she was engaged in prostitution. He also maintained that he never drove H [REDACTED] to escort appointments or took any other actions to facilitate her prostitution activities. (City Exhibit 1, pp. 0041-0043.)⁸

McShea testified that on the basis of her investigation, she concluded that Abrams had engaged in a relationship with H [REDACTED] while aware of her ongoing prostitution activities. Further, her investigation substantiated that he had actively engaged in H [REDACTED]'s prostitution business and lied by denying such activities. Finally, her work confirmed that he had been engaged in outside employment as an Uber driver for several months without having obtained the Department's prior authorization. (City Exhibit 1, pp. 0023-0026.)

As a consequence of McShea's findings, a Police Board of Inquiry ("PBI") hearing was held on April 19, 2017. On the evidence presented, the PBI panel found Abrams guilty on three of the four charges proffered against him: lying during a Departmental investigation; conduct indicating little or no regard for his responsibility as a Department member; and unapproved outside employment. The panel found him not guilty of knowingly associating with persons engaged in criminal activity. It recommended suspensions of fifteen and thirty days, respectively, on the first two findings of guilt and a reprimand on the third. (City Exhibits 2-3.)

Police Commissioner Richard Ross confirmed that notwithstanding the findings of the PBI, he chose to discharge Abrams pursuant to a Commissioner's Direct Action,

⁸ Abrams attended the May 21, 2018 hearing in this case, but did not testify.

effective June 19, 2017. (Joint Exhibit 2.) He explained that his review of the case folder, which included McShea's investigation report, confirmed that such response was warranted given the egregious nature of Abram's established misconduct; namely, facilitating H [REDACTED]'s prostitution business and lying during the IAD investigation. These transgressions, he stated, seriously undermined Abrams' ability to perform his sworn duties going forward, and thus, dictated his discharge.

Abrams' discharge prompted the instant grievance. (Joint Exhibit 2.) When the parties were unable to resolve the matter at the lower stages of the grievance procedure, the Union demanded arbitration. Pursuant to the procedures of their collective bargaining agreement, the parties selected me to hear and decide this case. (Joint Exhibit 1.)

I held a hearing in this matter on May 21, 2018, at the offices of American Arbitration Association in Philadelphia, Pennsylvania. At that time, the parties each had full opportunity to present evidence and argument in support of their respective positions. They did so. Upon the conclusion of the hearing, I declared the record closed.

DISCUSSION AND FINDINGS

The Issue:

The parties have stipulated that the issues to be decided are as follows:

1. Did the City have just cause to discharge the grievant, Police Officer Anthony Abrams, effective June 19, 2017?
2. If not, what shall be the remedy?

Positions of the Parties

The City contends that its discharge of Abrams was for just cause. It maintains that the evidence conclusively demonstrates that he violated multiple Department Disciplinary Code Sections that warranted his discharge. Specifically, he knowingly and

willfully participated in H[REDACTED]'s prostitution business and then lied during the IAD investigation to conceal that conduct.

In reviewing the record, the City acknowledges that McShea's testimony concerning H[REDACTED]'s October 2015 revised statement constitutes hearsay. It argues, however, that her statement should be credited nonetheless because the other non-hearsay evidence presented serves to corroborate it. Indeed, it stresses that the use of such evidence, while circumstantial, is the proper method of proving its case under the circumstances here.

It highlights that with Abrams and H[REDACTED] living together for approximately nine months, his claim of being unaware of her prostitution business is not credible. In addition, it points out that it stands undisputed that Abrams was paying for H[REDACTED]'s second cell phone, which she also listed in her escort advertisements. These facts, together with H[REDACTED]'s statement, it reasons, provide the connection needed to establish Abram's knowledge of and involvement in H[REDACTED]'s criminal activity.

It avers further that upon close examination, Abram's account of the events of June 7, 2015 is highly suspect. Abram's claim of having driven H[REDACTED] to the North Myrtlewood Street location at 1:30 a.m. that morning so that she could purchase a cell phone, it contends, does not make sense given that she already had two cellphones. In contrast, it maintains that H[REDACTED]'s revised account is far more credible, especially when considered in the light of the corroboration produced by the Department's investigation.

For example, consistent with H[REDACTED]'s stated safety practice of using one of her phones to maintain an open line with Abram's cell phone while on outcall appointments,

Abram's cell phone record reflects a four-minute call between their phones commencing at 1:31 a.m. on June 7, 2017. Further, it highlights that the record of this call is at odds with Abram's claim that H [REDACTED] had been out of the car for only a few seconds when the robbery occurred.

As additional corroboration, it points to the statement that H [REDACTED] attributed to Abrams expressing fear that IMPACT investigators had him under surveillance. The use of such police jargon by a civilian, it posits, lends credence to this aspect of her account. Stated otherwise, she would not have known of this term unless she had actually heard it from Abrams. Further, it points out that this expression of concern by Abrams evidences his guilty mind. Simply put, he would have had no other reason to express such fear but for his involvement in H [REDACTED]'s prostitution activities.

In sum, it contends that the results of McShea's thorough and objective investigation substantiated Abrams' guilt on the charges for which he was discharged. Specifically, the evidence conclusively shows that he knowingly participated in H [REDACTED]'s prostitution activities and then lied by denying such conduct when questioned by McShea. Accordingly, for all these reasons, it concludes that Abrams' discharge should be sustained and the Union's grievance should be denied.

The Union, on the other hand, maintains that the City lacked just cause to discharge Abrams as a consequence of the Department's investigation of the June 7, 2015 robbery. It submits that the City has failed to meet its burden of proof on any of the charges that it has proffered against him.

It asserts that the City has not presented any direct evidence establishing Abrams' guilt on these charges. Instead, it avers that all of the City's proof is either hearsay or

circumstantial evidence. Neither, it submits, are sufficient to substantiate the existence of just cause for an employee's discharge. On the record here, it contends that the City has presented simply too many unconnected dots to allow the Arbitrator to reach the conclusion for which it advocates.

It contends that many of the facts on which the City places great weight in arguing its case are actually susceptible to alternative explanations. For example, it cites the four-minute phone call placed at 1:31 a.m. on June 7, 2015 from H [REDACTED]'s cell phone to Abrams' phone. The City, it notes, claims that this call corroborates H [REDACTED]'s account of her outcall appointment safety practice, and, in turn, demonstrates Abrams' involvement in her prostitution business. However, it points out that the placement of this call is equally consistent with H [REDACTED] accidentally dialing Abrams' phone before exiting the car at the North Myrtlewood Street location.

It also avers that H [REDACTED]'s revised statement, which drove much of the Department's investigation, should be rejected as not credible. The record, it stresses, reflects obvious motives for her to falsely change her account of the events of June 7, 2015. For example, she may have been driven to do so in order to curry favor with the Department and the District Attorney given her pending prostitution charges for which she had an upcoming court date. In addition, with the break up of her relationship with Abrams, she may have harbored animus that caused her to make false accusations against him.

It asserts that the City's reliance on H [REDACTED]'s hearsay statement in bringing the charges at issue here and subsequently discharging Abrams has deprived him of the fundamental right to confront his accusers. Further, it contends that all of the results of

the Department's investigation that followed, and thus, were driven by H[REDACTED]'s revised statement should be disregarded. In support, it analogizes to the exclusionary rule applied in criminal cases to bar the introduction of evidence obtained through an unconstitutional search or interrogation as being fruit of the poisonous tree.

In sum, it concludes that the City's case is premised on having the Arbitrator make an unjustifiable leap of faith to conclude that the charges against Abrams have been substantiated. Doing so, it reasons, would contravene well-established arbitral authority that just cause cannot be established by mere hearsay and circumstantial evidence.

Accordingly, for these reasons, the Union asserts that its grievance should be granted and the requested relief awarded.

Opinion

The City's Police Department, no doubt, has a right to expect that its officers will conform to certain standards of conduct. In this regard, the Department's officers have an obligation to adhere strictly to the laws of the Commonwealth that they have sworn to uphold, refrain from associating intentionally with persons actively engaged in criminal conduct and respond truthfully when questioned in connection with Departmental investigations. The Department's obligation to protect and maintain the trust of the public that it serves compels as much.

Moreover, the parties have confirmed these standards by incorporating the Department's Disciplinary Code into their collective bargaining agreement. (Joint Exhibit 1.) As such, officers who breach the Department's trust by violating any of the provisions of the Disciplinary Code are subject to discipline in accordance with its terms.

When charging an officer with violating the Disciplinary Code, it is the City that carries the burden of proof. It must demonstrate with sufficient certainty that the officer committed the charged offense(s). It must also establish that the level of discipline imposed is appropriate.

The Union, on the other hand, has no corresponding burden. As such, it need not disprove the charges proffered against Abrams. Indeed, he is entitled to a presumption of innocence.

After a careful and thorough review of the record, I am convinced that the City has failed to meet its burden of establishing that it had just cause to discharge Abrams. My reasons for this conclusion follow.

The City's case on the three most serious charges against Abrams turns on its ability to demonstrate that he knew of and actively participated in H [REDACTED]'s prostitution activities. The evidence presented falls short of that needed to support such findings.

Other than Abrams, the only person with first-hand knowledge of the relevant facts is H [REDACTED]. In her revised statement regarding the events of June 7, 2015, she plainly affirmed that Abrams was not only well aware of her prostitution activities, but was a willing participant by providing her transportation to/from and protection during her outcall appointments. However, she did not testify here. Instead, the City relies on McShea's testimony and investigatory record in order to establish H [REDACTED]'s revised statement.

However thorough and complete McShea may have been in her October 2015 interview of H [REDACTED], her recollection and interview notes cannot substitute for

H[REDACTED]'s live testimony.⁹ Her testimony and the corresponding documentary evidence is plainly hearsay. While hearsay is admissible in arbitration, it cannot, standing alone, be received for the truth of the matter asserted, particularly where it bears on the ultimate issue in the case. Simply put, McShea's testimony and investigation report are insufficient to establish H[REDACTED]'s assertions that Abrams knew of and participated in her prostitution activities.

To hold otherwise would deny Abrams the basic due process right to confront his accuser, namely H[REDACTED], and subject her allegations to the test of cross-examination. Such right of confrontation is particularly important here given the presence of circumstances that bear directly on H[REDACTED]'s veracity. These include her shifting accounts concerning the events of June 7, 2015 and her potential motives for making false accusations against Abrams; namely, the criminal charges then pending against her and the recent termination of her relationship with Abrams.

Ultimately, as the trier of fact, I am responsible for making such credibility assessments. In the absence of H[REDACTED]'s live testimony, I cannot make that determination, and therefore, cannot credit her revised statement as recounted by McShea.

As the City acknowledges, the balance of its evidence is circumstantial. This fact alone is not fatal to its case. Indeed, in disciplinary cases, it is not uncommon for arbitrators to be faced with deciding whether a grievant committed the charged misconduct when nothing more than circumstantial evidence exists. In such cases, the

⁹ I note that the City did endeavor to secure H[REDACTED]'s testimony. To this end, it served subpoenas at her known residences. However, she failed to appear without explanation. Notwithstanding H[REDACTED]'s apparent refusal to cooperate and honor the City's subpoena, the fact remains that McShea's account of her October 2015 revised statement constitutes hearsay and cannot substitute for her live testimony.

determination to be made is whether through close reasoning by inference, the circumstantial evidence weaves a sufficiently tight factual web to substantiate the grievant's guilt of the charged misconduct. I am not persuaded that such is the case here.

I take note that much of the City's evidence was known to McShea as of July 2015, when, as she described, her investigation went dormant. As she testified, by that time, she had obtained H[REDACTED]'s June 7, 2015 text messages, the online escort advertisements, which included H[REDACTED]'s cell phone numbers, and H[REDACTED]'s cellphone records. On review, I find this evidence insufficient to impute knowledge of H[REDACTED]'s prostitution activities to Abrams. Simply put, it does not make the requisite tight factual connection necessary for me to infer that Abrams must have reasonably known that H[REDACTED] was working as a prostitute.

I am also not persuaded by the City's claim that the necessary factual connection is provided by evaluating the circumstantial evidence in tandem with H[REDACTED]'s revised, albeit hearsay, statement. Contrary to the City's assertion, I do not find that its non-hearsay, circumstantial evidence corroborates H[REDACTED]'s October 2015 statement. Instead, I conclude that just the opposite is true. Namely, it is H[REDACTED]'s statement that provides context and meaning to the circumstantial evidence.

For example, the approximate four-minute call placed from H[REDACTED]'s cell phone to Abrams' at approximately 1:31 a.m. on June 7, 2015, standing alone, does not provide proof of the requisite knowledge by Abrams. Indeed, as the Union has suggested, it could have been an inadvertent call, and thus, irrelevant to the charges here. It provides support for the allegations against Abrams only when considered in light of H[REDACTED]'s

reported practice of maintaining an open cell phone line with Abrams when on an outcall escort appointment.

Having concluded that H[REDACTED]'s revised statement cannot be accepted for the truth of the matter asserted, it necessarily follows that I cannot allow it to be used in this alternate fashion so as to give meaning to evidence that is otherwise ambiguous.

I am also compelled to reject the City's efforts to prove Abrams' guilt by citing the incredible nature of his denials. On the record here, I find the City's claims in this regard to be simply speculative. The mere fact that Abrams and H[REDACTED] had been in six-plus month relationship is not, without more, sufficient to conclude that he must have known of her prostitution activities. Stated otherwise, absent some additional evidence that H[REDACTED]'s prostitution activities were obvious to anyone living with her, I cannot conclude Abram's denial of such knowledge should be rejected as lacking credibility.

Likewise, H[REDACTED]'s listing of her second cellphone number in her online escort advertisements does not substantiate Abrams' knowledge of those activities. There is no dispute that Abrams paid for that second cellphone number by including it on his cellular account. However, without more, his act of doing so is simply not sufficient to connect him to the escort advertisements.

Finally, the credibility of Abrams' account of the events of June 7, 2015 cannot be evaluated by comparing it to H[REDACTED]'s revised statement. Such assessment is not possible here given that H[REDACTED] did not testify, and, as such, her revised account was not subject to the challenge of cross-examination.

Accordingly, I conclude that the City has failed to establish Abrams' guilt on the three principal charges proffered against him.

Thus, there remains only the charge that Abrams engaged in outside employment without obtaining the Department's prior approval. On the record here, I am satisfied that City has substantiated this violation of the Department's Disciplinary Code.

The documentary evidence presented plainly shows that Abrams began regularly working as an Uber driver as of July 2015. (City Exhibit 1, 0413-0444.) Yet, it stands undenied that he did not submit an application for outside employment to the Department until months later for which he received formal approval on September 17, 2015. (City Exhibit 1, pg. 0460.) Thus, by definition, he was guilty of engaging in unapproved outside employment from July 2015 – September 16, 2015.

The timing of McShea's discovery of this proof does not cause me to conclude otherwise. The fact that she secured this evidence after obtaining H [REDACTED]'s revised statement has no bearing on whether it can be properly considered here. Contrary to the Union's argument, I find no basis exists to disregard this evidence by analogizing to the exclusionary rule and the fruit of the poisonous tree doctrine applicable to criminal cases.

The exclusion of evidence in criminal proceedings as being the fruit of the poisonous tree is premised on their being a unconstitutional search and seizure or interrogation that led to acquisition of such evidence. Even assuming *arguendo* that the exclusionary rule applies in the context of a labor arbitration, the underlying predicate is lacking here. The Department's taking of H [REDACTED]'s revised statement in no way approximates a constitutional violation. Quite the opposite, under the circumstances, it represented a reasonable step in McShea's investigation. Further, H [REDACTED]'s absence as a witness at the hearing in this case did not stem from any failure by the City, but rather her apparent disregard of the City's subpoena.


As to the matter of penalty for this violation of the Department's Disciplinary Code, I am satisfied that consistent with the finding of the PBI, a reprimand is the appropriate response.

Accordingly, for all these reasons, I find the City lacked just cause to discharge Abrams. In regard to remedy, I direct the City to promptly reinstate Abrams to his former position with the Department without loss of seniority. The City is also directed to make payment to him for all wages and benefits lost as a consequence of his discharge through the date of his reinstatement. In addition, I instruct the Department to revise Abrams' personnel record to delete all references to his June 19, 2017 discharge to the maximum extent permitted under the governing law. However, his record shall reflect a reprimand for violating Department Disciplinary Code Section 6-§023-10 by engaging in unapproved outside employment.

AWARD

1. The grievance is granted, in part.
2. The City did not have just cause to discharge Police Officer Anthony Abrams, effective June 19, 2017.
3. The City will promptly reinstate Anthony Abrams to his former position with the Department without loss of seniority, and revise his personnel records to delete all reference to his June 19, 2017 discharge to the maximum extent permitted under the governing law. His record, however, shall reflect a reprimand for violating Department Disciplinary Code Section 6-§023-10 by engaging in unapproved outside employment during the period from July 2015 through September 16, 2015. In addition, the City will make him whole for all wages and benefits lost as a consequence of his discharge through the date of his reinstatement, less all outside wages and other earnings received by him as to this period. I will retain jurisdiction of this matter to resolve any dispute as to the monies to be paid to Mr. Abrams based on this award, including the issue of whether he satisfied his obligation to mitigate his damages.


June 19, 2018


David J. Reilly, Esq.
Arbitrator

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

I, DAVID J. REILLY, ESQ., do hereby affirm upon my oath as Arbitrator that I am the individual described herein and who executed this instrument, which is my Award.

June 19, 2018


David J. Reilly, Esq.
Arbitrator